

BOARD OF SUPERVISORS

Brown County



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EDUCATION & RECREATION COMMITTEE

Jesse Brunette, Chair
Tim Carpenter, Vice Chair
Bill Clancy, John Vander Leest, Vicky Van Vonderen

SPECIAL EDUCATION & RECREATION COMMITTEE

Wednesday, June 15, 2011

6:30 pm

**Room 210, City Hall
100 N. Jefferson Street**

- I. Call to Order.
- II. Approve/Modify Agenda.
- 1. Resolution to Approve Entry into a Working Agreement with the Oneida Environmental health & Safety Division and Oneida Golf and Country Club Regarding Removal of Dams at Pamperin Park.
- 2. Such other matters as authorized by law.

Jesse Brunette, Chair

Notice is hereby given that action by Committee may be taken on any of the items which are described or listed in this agenda.

Please take notice that it is possible additional members of the Board of Supervisors may attend this meeting, resulting in a majority or quorum of the Board of Supervisors. This may constitute a meeting of the Board of Supervisors for purposes of discussion and information gathering relative to this agenda.

June 15, 2011

TO THE HONORABLE CHAIRMAN AND MEMBERS
OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

**RESOLUTION TO APPROVE ENTRY INTO A WORKING AGREEMENT WITH THE
ONEIDA ENVIRONMENTAL HEALTH & SAFETY DIVISION AND ONEIDA GOLF &
COUNTRY CLUB REGARDING REMOVAL OF DAMS AT PAMPERIN PARK**

WHEREAS, the dams at Pamperin Park on the Duck Creek are in need of major repairs, pose a significant barrier to natural fish passage and create a law enforcement issue involving the illegal taking of fish during the spring spawning run; and

WHEREAS, the removal of these dams was approved by the Brown County Board of Supervisors in August of 2008; and

WHEREAS, the removal of these dams will be funded exclusively through Federal, State and Natural Resources Damage Assessment grants already secured by the Oneida Tribe; and

WHEREAS, the Oneida Tribe will be the grant and project administrator.

NOW, THEREFORE, BE IT RESOLVED that the Brown County Board of Supervisors approves the attached working agreement to remove the dams at Pamperin Park at no cost to Brown County and authorizes execution of the agreement by Brown County.

Respectfully submitted,

EDUCATION & RECREATION
COMMITTEE

Approved By:

COUNTY EXECUTIVE

Date Signed: _____

Authored by Facility & Park Mgmt. - Parks

Final Draft Approved by Corporation Counsel

Fiscal Note: This resolution does not require an appropriation from the General Fund. The Oneida Tribe will be the fiscal agent and provide project management.

BOARD OF SUPERVISORS ROLL CALL # _____

Motion made by Supervisor _____

Seconded by Supervisor _____

SUPERVISOR NAMES	DIST. #	AYES	NAYS	ABSTAIN
TUMPACH	1			
DE WANE	2			
NICHOLSON	3			
THEISEN	4			
KRUEGER	5			
HAFFS	6			
ERICKSON	7			
BRUNETTE	8			
ZIMA	9			
EVANS	10			
VANDER LEESE	11			
BUCKLEY	12			
DANTINNE, JR	13			

SUPERVISOR NAMES	DIST. #	AYES	NAYS	ABSTAIN
LA VIOLETTE	14			
ANDREWS	15			
KASTER	16			
VAN VONDEREN	17			
SCHULLER	18			
FLECK	19			
CLANCY	20			
WETZEL	21			
MOYNIHAN	22			
SCRAY	23			
CARPENTER	24			
LUND	25			
FEWELL	26			

Total Votes Cast _____

Motion: Adopted _____ Defeated _____ Tabled _____

Working Agreement
between
**Oneida Tribe's Environmental Health & Safety Division,
Brown County Facility & Park Management
and Oneida Golf & Country Club.**

PURPOSE

The purpose for this “**Working Agreement**” is to clearly state the intentions of the temporary work relationship between the Oneida Tribe’s Environmental Health and Safety Division (“Oneida EH&S”), Brown County Facility and Park Management (“Brown County”) and Oneida Golf and Country Club (“OG&CC”), for the removal of two dams and alteration of one dam structure on Duck Creek.

BACKGROUND

Duck Creek and its tributaries have been a major focus of hydrologic and habitat restoration efforts in recent years. Past land use practices caused changes in hydrology leading to alterations in channel morphology, stream bank erosion, and loss of critical habitat. Agricultural land use is still prevalent in the watershed and Wisconsin Department of Natural Resources (WDNR), Brown County, and the Oneida EH&S are all active in addressing agricultural impacts to surface waters. The Duck Creek Watershed is also considered a Priority Watershed under the Wisconsin Nonpoint Source Water Pollution Abatement Program, which has strengthened collaboration and cooperation around the vision of restoring health to the Duck Creek system.

There are several low-head dams in Duck Creek that pose a significant barrier to fish passage. The two larger structures on Duck Creek located in Pamperin Park are in need of major repairs and are a potential liability to Brown County as this is an area of public access. The deep pool areas created by the structures in Pamperin Park contain degraded natural habitat and slow, warm water of low quality. Although spring fish populations have historically flourished in these impoundments, the structures restrict the distribution of many fish species upstream to better feeding, spawning, and nursery habitat.

Investigations on Duck Creek fish passage regarding the structures in Pamperin Park and OG&CC began in January of 2008. Representatives from WDNR, United States Fish and Wildlife Service (USFWS), Brown County, and the Oneida EH&S met to identify fisheries issues associated with an initiative to increase fish passage in Duck Creek. Biologists from WDNR, USFWS, and the OH&S evaluated stream data to determine any potential data needs, and to make a scientific recommendation to the larger group regarding fish passage. Based on the scientific recommendation, the larger group then formed a recommendation to go forward with removal of Pamperin Park structures, and modification of OG&CC structure to act as invasive barrier. This recommendation was approved in concept by the Brown County Board of Supervisors, and supported by the Oneida Environmental Resource Board and Oneida Land Commission.

This project proposes to open fish passage and increase accessible fishing areas by:

- Removing deteriorating dams in Pamperin Park, removing impoundment, and restoring in-stream and streambank habitat.
- Modifying the structure immediately upstream in the OG&CC to restrict invasive species passage while allowing more desirable fish species to pass.

TERM

The term of this Working Agreement will be October 1, 2010 through December 31, 2012.

ROLES IN PROJECT

1. The roles of the parties engaged in this agreement are defined as follows:
 - Owners (O)** – Owners of the property where the work will be completed.
 - Grant Administrators (GA)** – Parties responsible for the securing, reporting and closing of the grant.
 - Stakeholders (SH)** – Parties who have an interest in the resource enhancement and physical hazard removal.
 - Technical Advisors (TA)** – Experts in their respective fields relating to the scope of work for this project.
2. Definition of roles:
 - Wisconsin Department of Natural Resources (WDNR)**– GA, SH, TA
 - Oneida Golf & County Club** – O, SH, TA
 - Oneida Environmental Health & Safety Division** – GA, SH, TA
 - Brown County Facility & Park Management** – O, SH, TA
 - United States Fish & Wildlife Service** – SH, TA

FUNDING PROCESS

1. The Wisconsin Department of Natural Resources has obtained a \$15,000 grant from Natural Resources Damage Assessment (NRDA) and the Oneida EH&S has received grants from Wisconsin Coastal Management Grant for \$34,000, US Fish and Wildlife Fish Passage for \$34,000 and Great Lakes Restoration Initiative (BIA) for \$36,000 (see attached Appendices - A, B, C, D).
 - All funds expended on the project need to meet the respective requirements of each grant listed above.
 - Project design and construction expenditures will not exceed each respective grant amount.
2. The grant funds total \$119,000, which will be used for the design and construction with removal/modification of existing structures and restoration of in-stream and stream bank habitat along Duck Creek.
 - The WDNR will be responsible for the payments through the NRDA per attached GRANT AGREEMENT (see Appendix E) with WDNR.
 - Oneida EH&S will be responsible administering payments for design and construction phase services through all the remaining grants.
 - OG&CC does not have financial obligation to this agreement.
 - Brown County does not have financial obligation to this agreement.

PROJECT

Scope of Work:

- Remove two dams at Brown County's Pamperin Park.
- Modify the upper structure at OG&CC to prevent invasive fish passage.
- Restoration of in-stream and stream bank habitat along east bank of Duck Creek in Pamperin Park (if remaining grant funds are available).

Organization of Project:

- The Oneida Tribe will facilitate the process through a Project Manager.
- Parties to this agreement will share in decision-making. Unanimous agreement will be the method of decision-making used for all issues that impact parties to this agreement.
- Parties to this agreement will collaborate on necessary grant reporting to include: progress reports, final report, and photo documentation.
- Parties to this agreement will develop and review assessment tools to ensure the objectives of the project are consistently being met. Oneida EH&S will provide project outreach to the Tribal and local community. All parties to this agreement will collaborate on public outreach that supports this project as outlined in this agreement.
- All parties to this agreement must agree in writing to extend or to dissolve this agreement.
- Upon execution of this agreement, all parties agree to commence with the project and to complete the entire project as outlined in this agreement.

Design Phase:

- A Qualification-Based Selection process will be used by the parties to this agreement for selection of a design consultant and award of a design contract.
- The awarded design consultant will work with parties to this agreement to generate two concept options for consideration to approach the work. The preferred option will then be elaborated into full construction documents.
- The design consultant will generate full plans.
- The design consultant will assist the parties of this agreement to competitively bid the work by prospective construction contractors.

Construction Phase:

- A construction contract will be awarded to the lowest bidding qualified responsible construction contractor.
- The awarded contractor will complete the work in accordance with the plans and specifications.
- The awarded contractor will comply with the State of Wisconsin Department of Workforce Development Prevailing wage rates for Brown County, WI.
- The design consultant will perform construction administration to ensure contractor is completing the work in accordance with the plans and specifications.
- All parties to this agreement are agreeable to allow project access to the land they own unless stated otherwise.

Project Close-out / Post-Construction:

- Warranties for the completed work will be issued by the construction contractor.
- Waivers of future lien rights to the property (lien waivers) will be received from any and all contractors, all-tier sub-contractors and material suppliers upon receipt of payment for services performed.
- On-going maintenance will become the responsibility of the structure / land owner after completion.

Enforcement

Solely for purposes of enforcing the terms of this agreement, Brown County and the Oneida Tribe of Wisconsin waive sovereign immunity and agree to be governed by Wisconsin law for the interpretation and enforcement of this agreement.

We the undersigned agree to the terms outlined above in this Working Agreement.
This is the entire agreement.

Brown County Executive

Date

Oneida Environmental Health & Safety Division

Date

Brown County Facilities & Park Management

Date

Oneida Golf & Country Club

Date

Attached: Appendix A, B, C, D and E